

Senate Bill No. 948

CHAPTER 218

An act to amend Section 142 of the Military and Veterans Code, relating to the state militia.

[Approved by Governor August 21, 2014. Filed with
Secretary of State August 21, 2014.]

LEGISLATIVE COUNSEL'S DIGEST

SB 948, Committee on Veterans Affairs. Active militia.

Existing law identifies the Governor as the Commander in Chief of the Militia of the State. The authority of the Governor in this regard includes ordering the active militia or any portion of it to perform military duty of every description, as specified. Existing law designates the necessary qualifications for a service member on state active duty.

This bill would recast and revise the above-referenced qualifications for state active duty service members, to include retired or separated members of the federal reserve component of any branch of the United States Armed Forces or the federally recognized National Guard of any state or United States territory, with current membership in the State Military Reserve.

Existing law provides that service members on state active duty who retire federally from the California National Guard are automatically assessed into the State Military Reserve.

This bill would require a service member already serving on state active duty who retires federally from the California National Guard to assess into the State Military Reserve in order to maintain eligibility for continued state active duty.

The people of the State of California do enact as follows:

SECTION 1. Section 142 of the Military and Veterans Code is amended to read:

142. (a) The Governor may order the active militia or any portion of it to perform military duty of every description, including necessary administrative duties, and to participate in small arms gunnery competitions in this state or in any other state or territory or the District of Columbia, or in any fort, camp, or reservation of the United States. He or she may also authorize the performance of military duty or participation in small arms or gunnery competitions by any part of the active militia anywhere outside the state or outside the United States. Cruise duty ordered for the Naval Militia may be required to be performed on United States vessels.

(b) Service members selected for permanent positions shall be selected using a military competitive selection process. A service member ordered to state active duty in accordance with this section who remains on state active duty for six consecutive years shall be eligible for career state active duty status and may remain on state active duty until the service member reaches 60 years of age or is separated for cause. At 60 years of age, a service member may remain on state active duty under temporary orders, which may be renewed annually.

(c) Orders for a service member with less than six years of state active duty service shall expire annually unless renewed or the service member is separated for cause.

(d) When a service member reaches 64 years of age, or when federal recognition of his or her grade or rank is withdrawn, whichever occurs later, the service member shall be retired from state active duty.

(e) A service member on state active duty with the Military Department pursuant to this section shall be any of the following:

(1) A current member of the California National Guard. For purposes of this section, a member described in subdivision (c) of Section 210 shall not be qualified to serve on state active duty unless he or she maintains current membership in the State Military Reserve.

(2) An individual who is retired or otherwise honorably separated from service with the active component of any branch of the United States Armed Forces, the federal reserve component of any branch of the United States Armed Forces, or the federally recognized National Guard of any state or United States territory, with current membership in the State Military Reserve.

(3) A current member of the State Military Reserve with a minimum of two years of service.

(f) A service member already serving on state active duty who retires federally from the California National Guard shall assess into the State Military Reserve in order to retain eligibility for continued state active duty.

(g) A commissioned officer on state active duty assigned to a general officer position who, previous to that duty, held a state active duty position at a lower grade, may revert to the grade last held upon vacation of the general officer position, if a position is available.

(h) Notwithstanding any other law, a service member who is on state active duty may be relieved from state active duty if the Adjutant General, acting in good faith and on behalf of the Governor, abolishes a position. The department shall make reasonable attempts to place the service member in an available position for which the service member is otherwise qualified.

(i) The Adjutant General, under the authority of the Governor as Commander in Chief, shall promulgate regulations in conformity with this section.